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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1936.

No. 797.

ALBERT A. CARMICHAEL et al.,
Appellants,

v.

GULF STATES PAPER COMPANY,
Appellee.

BRIEF OF AMICI CURIAE.

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BRIEF OF AMICI CURIAE.

STATEMENT.

This brief *amici curiae* is filed on behalf of certain parties which employ eight or more persons in the State of Alabama and are subject to the Unemployment Compensation Act of Alabama. They contend that the State Act and Titles III and IX of the Federal Social Security Act are unconstitutional.

Five of the parties, Stockham Pipe Fittings Company, Woodward Iron Company, Continental Gin Company, Standard Oil Company, and James B. Clow & Sons, are plaintiffs in one suit and Sloss-Sheffield Steel & Iron Company is plaintiff in another suit instituted and now pending in the United States District Court for the Middle District of Alabama, against the Attorney General of Alabama and the three members of the State Unemployment Compensation Commission, to restrain the enforcement of the State Act. The bills were not such as required the convening of a three-judge court, and the District Court granted injunctions, now in effect, enjoining the enforcement of the Act.

Eighty-two of the other parties on whose behalf this brief is filed, instituted suit against the Attorney General of Alabama and the members composing the State Unemployment Compensation Commission, in the Circuit Court of Montgomery County, Alabama, praying that the defendants be restrained from enforcing the Alabama Act on the grounds that it violated both the State and Federal Constitutions. On final hearing the Circuit Court sustained a demurrer to the bill, which judgment was affirmed by the Supreme Court of Alabama. *Talladega Ice and Storage Company, et al., v. Carmichael, et al.*, (Manuscript). This case is now pending on application for rehearing.

All of the above mentioned parties, therefore, have a vital interest in the determination by this Court of the issues involved in the present cause.

LIMITED SCOPE OF THIS BRIEF.

It is not the purpose of this brief to deal with all of the questions arising under these issues, but rather, supplemental to the brief filed on behalf of Appellee, to discuss mainly the invalidity of the State Act under the due process clause of the Fourteenth Amendment, and as it is considered that the State Act is inextricably interlocked with and dependent upon Titles III and IX of the Federal Act, to also discuss the validity of these titles under the Tenth Amendment.

It is not necessary to review the provisions of the State or Federal Acts as the brief of Appellee contains a detailed analysis thereof. The provisions of the Acts which are pertinent to the points discussed herein will be considered as they arise.

POINT I.

The Exactions Imposed by the Alabama Act Constitute a Taking of Property Without Due Process of Law.

The validity of exactions of the character imposed on employers and employees by the Alabama Act has not been passed on by this Court. The Supreme Court of Alabama in *Beeland Wholesale Company v. Kaufman et al.* (Manuscript), in speaking of the validity of the State Act under the Fourteenth Amendment said: "But no decision of the United States Supreme Court is directly in point on it * * *." No decision of this Court, as we view its holdings, has held that money, whether under the guise of a tax or of police power exactions, can be taken from one class or group of citizens and distributed to another in the manner required by the present Act.

The Alabama Supreme Court upheld the provisions imposing exactions on employers and employees as a valid exercise of the State's taxing powers. In the *Beeland* opinion it was said: "They are taxes and can be justified only as such."

The situation does not here obtain of a separation of a tax levy from the appropriation provisions so as to require a separate treatment of the exercise of the taxing power and of the power to appropriate. We quote further from the *Beeland* opinion:

> "The tax we are dealing with now, the State tax, is laid for a definite purpose and the amount collected is to be put in trust to be used for no other purpose. The tax levied cannot be separated from the purpose to be accomplished, and the resulting benefits to the employer class generally."

Cf. *Turnipseed et al. v. Blan*, 226 Ala. 549, 148 So. 116, which holds that a taxpayer may enjoin a state officer from unlawfully disbursing state funds.

It therefore follows that if the State of Alabama is levying a tax, the proceeds of which are to be unlawfully expended, a taxpayer may successfully resist the imposition even though the levy purports to be made under the general power to tax.

Section 93 of the Alabama Constitution provides that the State shall not lend its money or credit to any individual, association or corporation. This provision has been construed as preventing payments or bounties to individuals or classes of individuals who have no particular claim against the State. The following cases construe Section 94 of the State Constitution, which is similar to

Section 92, except that Section 94 applies to counties and cities:

Board of Revenue of Mobile County v. Puckett, 227 Ala. 374, 149 So. 850;
Garland v. Board of Revenue of Montgomery County, 87 Ala. 227, 6 So. 403;
Southern Railway v. Hartshorne, 162 Ala. 491, 50 So. 139;
Griffin v. Jeffers, 221 Ala. 649, 130 So. 190;
Stone v. State, 223 Ala. 426, 136 So. 727.

It is of course clear that monies raised by the State under its taxing powers are public revenues and can only be used for public purposes. It matters not that the proceeds of the levy are specifically appropriated. Such levy must be for a public use as contradistinguished from a private use or purpose. As we interpret the opinion in the *Beeland* case, the tax is sustained because the amounts collected are devoted to a public purpose, and not because the parties taxed receive equivalent reciprocal benefits.

Whether a tax is levied for a public purpose is a judicial question. We quote from Cooley on Taxation, Volume 1, Fourth Edition, at page 212, as follows:

> "It is the first requisite of lawful taxation, that the purpose for which it is laid shall be a public purpose. The decision to lay a tax for a given purpose involves a legislative conclusion that the purpose is one for which a tax may be laid; in other words, is a public purpose. But the determination of the legislature on this question is not, like its decision on ordinary questions of public policy, conclusive either on the other departments of the government, or on the people. The question, what is and what is not a public purpose, is one of law; and though unquestionably the legislature has large discretion in selecting

the object for which taxes shall be laid, its decision is not final."

The attempted enforcement of a tax imposed under an invalid law violates the due process clause. We quote from Cooley on Taxation, Volume 1, Fourth Edition, at page 305, as follows:

> "First, it would seem that a tax for a private as distinguished from a public purpose violates the due process clause."

We also quote from 61 Corpus Juris, 159:

> "Since the taxing power must be exercised for a public purpose, failure to comply with this requisite has been held a violation of the guaranty of due process of law."

The payment of benefits under the Alabama Act to the unemployed is not sustained under the principle of poor relief. We quote from the opinion in the *Beeland* case:

> "Under such circumstances, the State is not dependent upon section 88, Constitution, to help the poor."

It is clearly evident that the appropriation for the payment of benefits to idle employees in certain industrial or business occupations regardless of the condition or need of such employees could not have been justified as a valid exercise of the power to provide relief for the indigent. The State Act makes no distinction between the right of the affluent unemployed and the right of the destitute unemployed to receive benefits from the unemployment fund created by the levy held to be under the general taxing powers.

Certainly, unemployed persons who formerly worked for

salaries or wages have no more claim to special consideration in the way of public bounties than unemployed doctors, preachers, lawyers, blacksmiths or draymen who have not been deriving their sources of income from a master and servant relationship, or those who, by reason of physical disabilities or other causes, never held jobs.

Is there any more duty or obligation on the part of the State to pay the unemployed who have been engaged in industrial or business occupations, than the unemployed who have worked for farmers and who are excluded under the Act as recipients of benefits? It is true that neither farmers nor their employees are subject to the tax, but it has never been considered that a taxpayer who pays taxes levied under general revenue powers is by virtue of this fact entitled to preferential treatment in the disbursement of the tax proceeds.

It may be contended that because the State provides benefits for only a portion of the unemployed, that the Act is not rendered void because of the fact that it fails to provide for all of the unemployed. But can the State, consistent with due process, levy a tax and single out a selected class for bounties payable from the tax proceeds, to whom it owes no legal or moral obligation, and exclude others equally as deserving?

The citizens support the State and not the State the citizens. There is no duty on the part of the State to provide employment and it cannot assume the responsibilities of reimbursing the unemployed because of their lack of employment.

Whether levies of the character exacted by the State Act are sought to be justified under the general powers of taxation or under its police powers as imposing exactions only on those who receive equivalent benefits, this

Court has never held that a scheme such as the present one is valid. The cases which appear to be most cited by those who would sustain the legality of this type of legislation are:

Mountain Timber Company v. State of Washington, 243 U. S. 219, 61 L. Ed. 685;
Noble State Bank v. Haskell, 219 U. S. 104, 55 L. Ed. 112,

and the *Head Money Cases—Edye v. Robertson*, 112 U. S. 580, 28 L. Ed. 798. It is respectfully submitted that when these cases are analyzed, they by implication, at least, condemn rather than sanction levies like the present State Act.

It appears from the *Mountain Timber Case*, that the State of Washington had adopted a compulsory Workmen's Compensation Act, which provided for a fund for compensation of workmen injured in hazardous employment. The hazardous industries were classified so that the employees subject to the Act were required to contribute according to the hazard involved in their particular industry. One class of employers did not have to contribute to the fund created for employees injured while working in a separate kind of work. The Act established forty-seven different classes of employment and the rates of contribution varied from 1½% for some classes to 10% for the most hazardous classes. The Supreme Court quoted in italics in its opinion the following provisions of the Act:

> "In that the intent is that the fund created under this section shall ultimately become neither more nor less than self-supporting, exclusive of the expense of administration, the rates in this section named are

subject to future adjustment by the legislature, and the classifications to rearrangement following any relative increase or decrease of hazard shown by experience."

We quote further from the opinion, as follows:

"The percentages seem to be high; but when these are taken in connection with the provisions requiring accounts to be kept with each industry in accordance with the classification, and declaring that no class shall be liable for the depletion of the accident fund from accidents happening in any other class, and that any class having sufficient funds to its credit at the end of the first three months or any month thereafter is not to be called upon, it is plain that, after the initial payment, which may be regarded as a temporary reserve, the assessments will be limited to the amounts necessary to meet actual losses."

Further on, the opinion says:

"We are unable to discern any ground in natural justice or fundamental right that prevents the state from imposing the entire burden upon the industries that occasion the losses."

The vital differences between the Washington Act considered in the above case and the Alabama Unemployment Compensation Act are plainly apparent. The Washington Act, instead of making virtually all employers and employees subject to the Act, selected those which were considered to be engaged in hazardous industries, but stronger still, the employers in one class of hazardous industry did not have to contribute to the employees of another class. Under the Alabama Act, all employers and employees, except the comparatively few exempted by the Act, are grouped together and required to contribute at the same

rate to a common pooled fund. Hazardous and non-hazardous enterprises and occupations having much unemployment and occupations having no unemployment bear the same rate of tax, and the less unemployment an industry has, the greater is its tax burden. This is just the opposite of the Washington Act which required the class of industry having the greatest accident toll to make the largest contribution. As clearly pointed out in the opinion in the *Mountain Timber* case, the industries that occasioned the losses bore the brunt of the burden. Employers who keep their employees at work are certainly not the ones who are contributing to unemployment, but, under the Alabama Act, only the industries who have employment contribute to the unemployed. The features of the Washington Act pointed out in the opinion in the *Mountain Timber* case seem to us to clearly indicate why the Alabama Act is invalid. Even with the distinguishing features carefully pointed out by the majority of the Court in this case, Mr. Chief Justice White, Mr. Justice McKenna, Mr. Justice Van Devanter and Mr. Justice McReynolds dissented.

Mr. Justice Roberts in the opinion in *Railroad Board v. Alton R. Company*, 295 U. S. 330, 79 L. Ed. 1468, clearly analyzes the holding in the *Mountain Timber* case. We quote excerpts from the opinion as follows:

> "It is claimed that several other decisions confirm the legality of the pooling principle, when reasonably applied. For this position petitioners cite Mountain Timber Co. v. Washington, 243 U. S. 219, 61 L. ed. 685, 37 S. Ct. 260, Ann. Cas. 1917 D, 642, 13 N. C. C. A. 927; Noble State Bank v. Haskell, 219 U. S. 104, 55 L. ed. 112, 31 S. Ct. 486, 32 L. R. A. (N. S.) 1062, Ann. Cas. 1912 A, 487, and Thornton v. Duffy, 254 U. S. 361, 65 L. ed. 304, 41 S. Ct. 137. In the first of these

the Washington workmen's compensation act, which required employers in extra-hazardous employment, to pay into a state fund certain premiums based upon the percentage of estimated pay roll of the workmen employed, was under attack. For the purpose of payments into the fund accounts were to be kept with each industry in accordance with a statutory classification, and it was definitely provided that no class should be liable for the depletion of the accident fund by reason of accidents happening in any other class. The act therefore clearly recognized the difference in drain or burden on the fund arising from different industries and sought to equate the burden in accordance with the risk. The challenge of the employers was that the statute failed of equitable apportionment as between the constituted classes. But no proof was furnished to that effect, and this court assumed that the classification was made in an effort at fairness and equity as between classes. The Railroad Retirement Act, on the contrary, makes no classification, but, as above said, *treats all the carriers as a single employer, irrespective of their several conditions.*

• • • • • • •

"We conclude that the provisions of the Act which disregard the private and separate ownership of the several respondents, treat them all as a single employer, and pool all their assets regardless of their individual obligations and the varying conditions found in their respective enterprises, cannot be justified as consistent with due process." (Emphasis supplied.)

In the *Head Money* cases this Court sustained a Congressional Act levying on shipowners a fee of fifty cents for each foreign citizen brought by them into the United States, on the ground that the imposition was a valid ex-

ercise by Congress of its power to regulate immigration. The due process clause does not seem to have been mentioned or considered in the opinion. It was held that the exaction was not under the taxing power. We quote from the opinion:

> "But the true answer to all these objections is, that the power exercised in this instance is not the taxing power.
>
> • • • • • • •
>
> "The sum demanded of him is not, therefore, strictly speaking, a tax or duty within the meaning of the Constitution."

It has been held by this Court that no state has the right to take, without adequate compensation, the property of one person and give it to another. When property is taken without the owner's consent, it must be devoted to a public purpose. In this connection we call attention to the following excerpt from *Loan Association v. Topeka*, 20 Wall. 655, 22 L. Ed. 455:

> "The power to tax is, therefore, the strongest, the most pervading of all the powers of government reaching directly or indirectly to all classes of the people. It was said by Chief Justice Marshall, in the case of McCulloch v. Md., 4 Wheat. 431, that the power to tax is the power to destroy. A striking instance of the truth of the proposition is seen in the fact that the existing tax of ten per cent imposed by the United States on the circulation of all other banks than the National Banks, drove out of existence every state bank of circulation within a year or two after its passage. This power can as readily be employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and

prosperity to the other, if there is no implied limitation of the uses for which the power may be exercised.

"To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms."

In *Cole v. City of La Grange*, 113 U. S. 1, 28 L. Ed. 896, it was stated:

"The general grant of legislative power in the Constitution of a State does not enable the Legislature, in the exercise either of the right of eminent domain or of the right of taxation, to take private property, without the owner's consent, for any but a public object. Nor can the Legislature authorize counties, cities or towns to contract, for private objects, debts which must be paid by taxes. It cannot, therefore, authorize them to issue bonds to assist merchants or manufacturers, whether natural persons or corporations, in their private business. These limits of the legislative power are now too firmly established by judicial decisions to require extended argument upon the subject."

If a conglomerate mass of taxpayers can be forced to contribute to a fund to provide payments for a selected class who become unemployed, then it would appear that all citizens can be made to contribute for the benefit of all the unemployed, and this, regardless of the condition or state of circumstances of the beneficiaries of the grants. If such schemes are constitutional, we respectfully submit that under the same principle all persons acquiring mortgages and also the mortgagors, could be required to

contribute to a common fund to enable insolvent mortgagors to pay their indebtednesses.

The extent to which legislative power of this kind might be extended, if legal, is only limited by one's range of imagination.

An independent income to individuals, or to numbers of individuals, no doubt contributes to the welfare of the state and to its citizens, but this condition of affairs cannot be legally accomplished by the state by its forcibly taking property from some of its citizens and giving it to others, whether such taking is done in the form of taxes, police powers, or through other means.

POINT II.

Titles III and IX of the Federal Social Security Act are Violative of the Tenth Amendment.

While this case deals primarily with the State Act, yet the terms of the Act make it dependent upon the validity of Titles III and IX of the Federal Act. This dependency was recognized by the Alabama Supreme Court in its opinion in the *Beeland* case. We, therefore, think it appropriate to briefly discuss in this brief the constitutionality of the above mentioned sections of the Federal Act.

If the conclusion reached by the Alabama Supreme Court in the *Beeland* case is correct, then the matter of unemployment is one within the sphere of the State. This is certainly true insofar as unemployment arises out of intrastate relationships. It is elementary that the same power cannot exist in both the State and Federal Governments. The existence of power in one government negatives it in another.

In *Hammer v. Dagenhart*, 247 U. S. 251, 62 L. Ed. 1101, this Court stated the well established principle in the following language:

> "The maintenance of the authority of the states over matters purely local is as essential to the preservation of our institutions as is the conservation of the supremacy of the Federal power in all matters intrusted to the nation by the Federal Constitution.
>
> "In interpreting the Constitution it must never be forgotten that the nation is made up of states, to which are intrusted the powers of local government. And to them and to the people the powers not expressly delegated to the national government are reserved."

In *Bailey v. Drexel Furniture Company*, 259 U. S. 20, 66 L. Ed. 817, all the members of the Court, except Mr. Justice Clarke, were of the opinion that child labor within the states could not be regulated by penalties adopted by Congress in the guise of a tax. Mr. Chief Justice Taft said:

> "In the light of these features of the act, a court must be blind not to see that the so-called tax is imposed to stop the employment of children within the age limits prescribed. Its prohibitory and regulatory effect and purpose are palpable. All others can see and understand this. How can we properly shut our minds to it?
>
> "It is the high duty and function of this court in cases regularly brought to its bar to decline to recognize or enforce seeming laws of Congress, dealing with subjects not intrusted to Congress, but left or committed by the supreme law of the land to the control of the states. We cannot avoid the duty even though it require us to refuse to give effect to legislation designed to promote the highest good. The good

sought in unconstitutional legislation is an insidious feature because it leads citizens and legislators of good purpose to promote it without thought of the serious breach it will make in the ark of our covenant, or the harm which will come from breaking down recognized standards. In the maintenance of local self-government, on the one hand, and the national power, on the other, our country has been able to endure and prosper for near a century and a half."

The ingenious argument has been made that as the taxes levied in Title IX of the Federal Act are imposed under the general taxing powers of the United States, no one can question the validity of the exactions. It is further contended that as Title III deals only with appropriations, the constitutionality of these provisions cannot be attacked under the principles laid down in *Mass. v. Mellon*, 262 U. S. 447, 67 L. Ed. 1078. This argument wholly ignores the comprehensive plan and the results sought to be accomplished, all of which are plainly apparent upon even a casual examination of the provisions.

The 90% credit allowed on the Federal tax for payments made into a state unemployment fund under a state law is expressly conditioned upon the approval by the Federal Social Security Board of the state law in its entirety. There are many specific mandatory requirements to which the State Act must conform. The immediate turning over by the State to the Federal Government of all amounts collected under its statute is compulsory and is one of the prime requisites for the allowance of credit by its citizens on the Federal levy. Should the State later change its law so that it no longer, in the opinion of the Federal Board, contains the provisions specified in Section 903, or if the State officials fail to comply with the provisions of this section, the previous Federal approval of the

State Act is withdrawn. [Paragraph (b) of Section 903.]

Section 303 of the Act provides, among other things, that no part of the amounts appropriated in Title III shall be paid to any state which does not immediately pay all monies received in its unemployment fund to the Secretary of the Treasury, or if the Federal Board finds that the State agency charged with the enforcement of the State Act is failing to comply with the requirements specified in paragraph (a) of that section, no further payments are made to the State.

The pattern for the form and content of the State Act and the manner of its enforcement could not for all practical purposes have been more effectively accomplished if Congress had provided an exact model, from which no deviation was permitted. It is true the Federal Act requires no levy on employees for unemployment benefits, but that does not change or alter the dominant purpose of Congress that the States must tax the employers at the rate determined by Congress or else suffer the consequences of having large numbers of its citizens subjected to a penalty equivalent to nine-tenths of one per cent of their pay rolls.

Looking at the true situation as it existed after the passage of the Federal Act, can anyone seriously assert that the states were left to their free and untrammeled option as to whether they would adopt a standard unemployment insurance system to be administered under the supervision and control of Federal agencies? A state can very often be just as effectively coerced through pressure applied on the pocketbooks of its citizens as by bayonets.

This Court is not supposed to be blind to what everyone else knows. The purpose of the tax considered in the Child Labor Tax case, supra, was not any more clearly

manifested than is the dominant motive revealed by Titles III and IX. "The voice is Jacob's voice, but the hands are the hands of Esau."

The state evidently recognizes that from a practical point of view it has very little to do with the scheme of unemployment insurance, except to administer the minor details of the plan. The state agency officials are in effect merely provincial satraps. That Alabama is willing to throw the whole undertaking overboard if the Federal Act ceases to be operative is manifested by the provision that the Act shall cease to be effective if this Court finds the Federal measure unconstitutional.

The fact that the provision providing for the turning over of funds to the states for administering the scheme is contained in Title III and the provision for the Federal tax and the credits thereon is skipped to Title IX cannot operate to prevent a consideration of the respective provisions in conjunction with each other. Both provisions are contained in the same Act and are just as much related to each other as if numbered consecutively or, for that matter, if contained in separate acts. The coercive features of Title IX are, we respectfully submit, sufficient to render that part of the Act void if consideration of Title III is omitted or precluded. Title III only emphasizes the extent of the coercion exerted on the states.

Mr. Justice Roberts, speaking for this Court in *United States v. Butler*, 297 U. S. 1, 80 L. Ed. 447, said:

> "It is said that what the respondents are endeavoring to do is to challenge the intended use of the money pursuant to Congressional appropriation when, by confession, that money will have become the property of the Government and the taxpayer will no longer have any interest in it. Massachusetts v. Mellon, 262

U. S. 447, 67 L. ed. 1078, 43 S. Ct. 597, is claimed to foreclose litigation by the respondents or other taxpayers, as such, looking to restraint of the expenditure of government funds. That case might be an authority in the petitioners' favor if we were here concerned merely with a suit by a taxpayer to restrain the expenditure of the public moneys. It was there held that a taxpayer of the United States may not question expenditures from its treasury on the ground that the alleged unlawful diversion will deplete the public funds and thus increase the burden of future taxation. Obviously the asserted interest of a taxpayer in the federal government's funds and the supposed increase of the future burden of taxation are minute and indeterminable. But here the respondents who are called upon to pay moneys as taxes, resist the exaction as a step in an unauthorized plan. This circumstance clearly distinguishes the case. The Government in substance and effect asks us to separate the Agricultural Adjustment Act into two statutes, the one levying an excise on processors of certain commodities, the other appropriating the public moneys independently of the first. Passing the novel suggestion that two statutes enacted as parts of a single scheme should be tested as if they were distinct and unrelated, we think the legislation now before us is not susceptible of such separation and treatment."

We quote further from the opinion as follows:

"The power of taxation, which is expressly granted, may, of course, be adopted as a means to carry into operation another power also expressly granted. But resort to the taxing power to effectuate an end which is not legitimate, not within the scope of the Constitution, is obviously inadmissible.

• • • • • • •

"In Linder v. United States, 268 U. S. 5, 69 L. ed. 819, 45 S. Ct. 446, 39 A. L. R. 229, supra, we held that the power to tax could not justify the regulation of the practice of a profession, under the pretext of raising revenue. In United States v. Constantine (decided December 9, 1935) (296 U. S. 287, ante, 233, 56 S. Ct. 223), we declared that Congress could not, in the guise of a tax, impose sanctions for violation of state law respecting the local sale of liquor. These decisions demonstrate that Congress could not, under the pretext of raising revenue, lay a tax on processors who refuse to pay a certain price for cotton and exempt those who agree so to do, with the purpose of benefiting producers."

In *Schechter v. United States*, 297 U. S. 495, 79 L. Ed. 1570, this Court said:

"Stress is laid upon the great importance of maintaining wage distributions which would provide the necessary stimulus in starting 'the cumulative forces making for expanding commercial activity.' Without in any way disparaging this motive, it is enough to say that the recuperative efforts of the Federal Government must be made in a manner consistent with the authority granted by the Constitution.

"We are of the opinion that the attempt through the provisions of the Code to fix the hours and wages of employes of defendants in their intrastate business was not a valid exercise of Federal power."

See also *Carter v. Carter Coal Company*, 298 U. S. 238, 80 L. Ed. 1160, and *Ashton v. Cameron County*, 298 U. S. 513, 80 L. Ed. 1309.

CONCLUSION.

Realizing the tremendous responsibility placed on this most Honorable Court, we, with great deference, submit

our views on the important issues involved in the litigation.

May we not respectfully submit that the reasoning adopted by the Privy Council in The Attorney General of Canada v. The Attorney General of Ontario and others, also applies with extraordinary force here?

Respectfully submitted,

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